

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Herbert Slater,)	C/A No.: 3:07-cv-4009-GRA-JRM
)	
	Petitioner,)
)
v.)	ORDER
)	(Written Opinion)
Jon Ozmint,)	
)	
	Respondent.)
)	

This matter comes before the Court to review the magistrate's Report and Recommendation pursuant to 28 U.S.C. § 636(B)(1)(b) and Local Rule 73.02(B)(2)(c), D.S.C., filed on May 20, 2008.

Petitioner originally filed this action, pursuant to 28 U.S.C. § 2254, on December 13, 2007. Respondent filed a motion for summary judgment on March 19, 2008. The magistrate issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on March 21, 2008, advising the petitioner of the summary judgment procedure and warning the petitioner about the possible consequences of failing to respond. Petitioner did not respond. On April 29, 2008, the Magistrate gave the petitioner fifteen days to inform the court whether or not he desired to continue prosecuting his petition. The petitioner did not respond. The magistrate recommends dismissing the petitioner's 28 U.S.C. § 2254 habeas corpus petition under Rule 41(b) of the Federal Rules of Civil Procedure because the petitioner did not respond to the respondent's motion for summary judgment or the magistrate's orders to respond.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leake*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Petitioner filed no objections.

After a thorough review of the magistrate's Report and Recommendation, the record, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT this action be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

July 1, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Petitioner has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal**.